



Colorado Ready Mixed Concrete Association
Colorado Rock Products Association

August 18, 2003

Federal Communications Commission
Attn. Leslie Smith, Room 1-A804
445 12th Street, S.W.
Washington, DC 20554

RE: Proceeding 02-278 Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991

Federal Communications Commission:

The Colorado Ready Mixed Concrete Association and the Colorado Rock Products Association (CRMCA/CRPA) appreciate the opportunity to comment on the Federal Communications Commission's (FCC) final rule implementing the Telephone Consumer Protection Act (TCPA) of 1991. This new rule will place arduous administrative and economic burdens on CRMCA/CRPA.

The CRMCA/CRPA represent 170 companies throughout the state of Colorado who produce over 33 million tons of aggregates, crushed stone and sand and gravel, and clay, which are used in various forms for construction of highways, sidewalks, residential and commercial buildings, and water and sewage treatment plants. Many of our members' companies are family-owned businesses and many are vertically integrated thus producing ready mixed concrete, brick, and asphalt. Our members employ more than 5,000 people and produce over 85 percent of all the aggregate and ready mixed concrete used in the State.

The FCC has decided, without adequate time for public comment, to modify the current law by doing away with the "established business relationship" provision pertaining to fax advertisements. This amendment will place onerous administrative and economic burdens on CRMCA/CRPA by requiring "expressed written consent" from our own members prior to sending a fax advertisement.

The new FCC reading of the TCPA prohibits any person or entity from sending any fax that contains an unsolicited advertisement which is defined as "any material advertising the commercial availability or quality of any property, good, or services which is transmitted to any person without that person's prior express invitation or permission." As a result, the established business relationship is no longer sufficient to permit faxes to be transmitted. Associations and businesses are now faced with the challenging

administrative, legal, economic and record keeping ramifications that will arise thanks to the new FCC changes.

The proposed changes, which are scheduled to go into effect on August 25, 2003, 30 days after they were published in the Federal Register on July 25, 2003, will create a significant economic and labor intensive burden for the association community. The adjustment in the TCPA will require signed written consent to allow faxes to be sent that contain unsolicited advertisements. It will even require written consent for faxes pertaining to events such as annual meetings.

While these changes may be suitable for residential telephone numbers as the new Do Not Call registry provides, they are certainly not acceptable for association-to-member facsimile communications. Associations rely on faxes as a prime source of communication and marketing to meet the needs of their members.

With penalties reaching \$11,000 per unauthorized fax, this is a burden that few associations can financially endure. The proposed FCC changes are a prime example of an idea where the disadvantages and unintended consequences far outweigh the benefits.

Thank you for your consideration of the foregoing comments of the Colorado Ready Mixed Concrete Association and Colorado Rock Products Association. If you have any questions on the above, or would like to speak with us further about our concerns, please do not hesitate to contact me at 303-771-5290.

Respectfully yours,

Melissa I. Young, Esq.
Regulatory Specialist

cc: Paul Schauer, CRMCA/CRPA Managing Director
National Ready Mixed Concrete Association
National Stone Sand and Gravel Association